

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

**FARM FAMILY CASUALTY
INSURANCE CO., as Subrogee for
Richard Baldwin and Rhonda Baldwin,**

Plaintiff,

v.

SIEMENS INDUSTRY, INC.,

Defendant.

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) Civil Action No. 2:10-0181
) **(Jackson County Circuit Court**
) **Civil Action No. 10-C-9)**
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) JURY TRIAL DEMANDED
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NOTICE OF REMOVAL

Pursuant to Title 28 U.S.C. §1441, *et seq.*, and 28 U.S.C. §1332, Defendant, **SIEMENS INDUSTRY, INC.**, by and through its attorneys, James A. Varner, Sr., Debra Tedeschi Herron, and the law firm of McNeer, Highland, McMunn and Varner, L.C., files this Notice of Removal of the above-captioned action from the Circuit Court of Jackson County, West Virginia, Case No. 10-C-9, to the United States District Court, Southern District of West Virginia, Charleston Division, on the basis that diversity of citizenship has existed and exists between the Plaintiff and Defendant from the date Plaintiff's Complaint was filed and at all relevant times from the date of the occurrence through the present date, and in support thereof, state the following:

1. On February 17, 2010 Plaintiff filed its Amended Complaint, Farm Family Casualty Insurance Company, as Subrogee for Richard Baldwin and Rhonda Baldwin v. Siemens Industry, Inc., Docket No. 10-C-9. A copy of said Amended Complaint is attached hereto as Exhibit "A", and incorporated herein by reference.

2. On or about February 22, 2010 Siemens Industry, Inc. f/k/a Siemens Energy & Automation, Inc. ("SII") was served with summons and a copy of the Amended Complaint. A

copy of Said Summons and Service is attached hereto as Exhibit “B”, and incorporated herein by reference.

3. The United States District Court has jurisdiction over the above described action pursuant to 28 U.S.C. §1332 and §1441 for the following reasons:

(a) Plaintiff is a citizen of the State of New York as it is incorporated in the State of New York and has its principal place of business in the State of New York as it is headquartered in the State of New York. See Exhibit “A”, ¶2 and a copy of Plaintiff’s homepage, <http://www.farmfamily.com>, which is attached hereto as Exhibit “C”, and incorporated herein by reference;

(b) Plaintiff’s subrogors, Richard Baldwin and Rhonda Baldwin, are citizens of the State of West Virginia. See Exhibit “A”, ¶¶ 2-3;

(c) Siemens Energy & Automation, Inc., on the date of the occurrence, was a citizen of the States of Delaware and Georgia. See a copy of the Affidavit of Noe Bermudez, which is attached hereto as Exhibit “D”, and incorporated herein by reference;

(d) Siemens Energy & Automation, Inc. was wholly merged into SII, effective October 1, 2009. See Exhibit “D”;

(e) SII, on the date the lawsuit was filed, and at all times relevant to this litigation, is a citizen of the States of Delaware, Georgia and Illinois. See Exhibit “D”;

(f) In Plaintiff’s Complaint, Plaintiff seeks a monetary amount in the amount of \$113,500. See Exhibit “A”, ¶8;

(g) SII has removed this action within thirty (30) days of service of Plaintiff’s Amended Complaint, which established complete diversity of citizenship between Plaintiff and Defendant and that the amount in controversy exceeds \$75,000.00, exclusive of interests and costs, and this Notice of Removal is filed within one year of the date the action was commenced in the State Court;

(h) This action is, therefore, properly removable pursuant to 28 U.S.C. §1441(a) and 28 U.S.C. §1332.

4. A certified copy of the entire file of the Circuit Court of Jackson County has been requested, and a copy of the Circuit Court's docket sheet is attached hereto as Exhibit E.

5. SII has given written notice of the filing of this Notice of Removal to Plaintiff and has filed a copy of the Notice of Removal with the Clerk of the Circuit Court of Jackson County, West Virginia.

6. Defendant, SII, hereby demands trial by jury on all issues so triable.

WHEREFORE, the Defendant, Siemens Industry, Inc., gives notice that this action is removed from the Circuit Court of Jackson County, West Virginia, to this Court, for the exercise of jurisdiction over this action, as though this action had originally been instituted in this Court.

Respectfully submitted this 23rd day of February, 2010.

**Defendant, SIEMENS INDUSTRY, INC.,
By Counsel,**

/s/ James A. Varner, Sr.

James A. Varner, Sr. (WV State Bar #3853)
Debra Tedeschi Herron (WV State Bar #6501)

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Defendant.

JURY TRIAL DEMANDED

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